



AF / 6P3632

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Venegas, Jr.

Serial No.: 10/054,122

Group No.: 3632

Filed: Nov. 13, 2001

Examiner: Tan Le

For: MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY
CONFERENCE TABLES, AND THE LIKE

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

Commissioner for Patents
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On Dec. 19, 2003.


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#14

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BOARD OF PATENT APPEALS AND INTERFERENCES

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APPELLANT'S CORRECTED APPEAL BRIEF

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Dear Sir:

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In response to the Notification of Non-Compliance dated November 19, 2003, Appellant submits herewith its corrected Appeal Brief.

I. Real Party in Interest

The real party and interest in this case is Frank Venegas, Jr., Applicant and Appellant.

II. Related Appeals and Interferences

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

The present application was filed with 17 claims. Claim 18 was added in January 2003. Claims 15-16 have been allowed. Claim 3 has been canceled. Claims 9, 10 and 17 have been withdrawn. Accordingly, claims 1, 2, 4-8, 11-14 and 18 remain pending, and are under appeal.

**IV. Status of Amendments Filed Subsequent
Final Rejection**

No after-final amendments have been filed.

V. Concise Summary of the Invention

The present invention provides a collapsible table base assembled from a plurality of horizontal and vertical members interconnected by releasable structural fittings (Specification, page 2, lines 2-10).

In one embodiment, the collapsible table base has a top portion disposed in a generally horizontal plane comprised of a plurality of releasably interconnected horizontal members (Specification, page 2, lines 2-10). A support portion supports the top portion in the generally horizontal plane and includes a plurality of elongated members releasable interconnected to one another. The elongated members include leg members having lower ends for engaging the floor. Removable structural fittings releasable interconnect the top portion and support portions so as to form a generally rigid base (Specification, page 2, lines 2-10).

**VI. Concise Statement of Issues Presented
For Review**

1. Are claims 1-2, 4-7, 11-12, 14 and 18 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Catteneo, or in view of U.S. Design Patent No. 426,898 to Venegas, Jr.?

2. Is claim 8 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Catteneo, or in view of U.S. Design Patent No. 426,898 to Venegas, Jr., and further in view of U.S. Patent No. 3,886,710 to Krause et al. or further in view of U.S. Patent No. 5,941,183 to Ming-Shun?

3. Is claim 13 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Catteneo, or in view of U.S. Design Patent No. 426,898 to Venegas, Jr., and further in view of U.S. Patent No. 3,910,206 to Jay?

VII. Grouping of Claims for Each Ground of Rejection Which Appellant Contends

Appellant believes the following groups of claims represent patentably distinct inventions which should be given independent consideration on appeal:

Group I: Claims 1-2, 4-8 and 18, wherein 2, 4-8 and 18 stand or fall with claim 1; and

Group II: Claims 11-14, wherein claims 12-14 stand or fall with claim 11.

VIII. Argument

A. Group I - Claims 1-2, 4-8 and 18

Claim 1 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Cattaneo, or in view of U.S. Design Patent No. 426,898 to Venegas, Jr.

The Examiner states that the only difference is that sheathing does not surround each of the tubular members and since Cattaneo or Kawai et al. or Venegas, Jr. teach replaceable sheathing such members, it would have been obvious to modify Weitzman or Hart, Jr. Appellant respectfully disagrees. Although Cattaneo et al. does reside in a table leg with sheathing, it is a table leg alone, with no reference or suggestion to a collapsible table, including a top. Kawai et al. is not directed to a table at all, but rather, simply teaches that a steel pipe may be sheathed with conductive plastic resin, not for any esthetic reason, but more for a functional consideration. Finally, Venegas, Jr., the same Appellant as the subject matter of the instant invention, teaches the use of plastic-covered members, but not for tables. As such, it is Appellant's position that the Examiner has failed to establish *prima facie* obviousness.

It is well settled that to reject claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to combine references to arrive at Appellant's claimed invention. Moreover, there must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988).

The Examiner is further required to make specific findings on a suggestion to combine prior art

references. In Re Dembeczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999). In this case, there is no teaching or suggestion whatsoever in Weitzman or Hart, Jr. to include plastic sheathing, nor is there any teaching or suggestion in Cattaneo, Kawai et al., or Venegas, Jr. to build a collapsible table using tubular members that are covered with plastic. According, *prima facie* obviousness is precluded. But in addition, as discussed above, even if the combination proposed by the Examiner were legitimate, Appellant's claimed subject matter would not result, since claims 1 and 11 specify a top which rests on a plurality of generally horizontal members supported by a base, and claim 11 further includes that the top is glass.

B. Group II: Claims 11-14

Claim 11 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Cattaneo, or in view of U.S. Design Patent No. 426,898 to Venegas, Jr.?

Appellant contends that claim 11 as amended, and newly-added dependent claim 18 are allowable, in that the use of a glass top is clearly precluded by the Weitzman reference, which sets forth a work table with an integral top that clearly teaches away from the use of glass.

Conclusion

In conclusion, for the arguments of record and the reasons set forth above, all pending claims of the subject application continue to be in condition for allowance and Appellant seeks the Board's concurrence at this time.

Respectfully submitted,

By: _____

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Date: Dec. 19, 2003

APPENDIX A
CLAIMS ON APPEAL

1. A collapsible table, comprising:
 - a table base top portion disposed in a generally horizontal plane, the top portion comprising a plurality of releasably interconnected horizontal members for supporting the table top thereon;
 - a support portion for supporting the table base top portion in the generally horizontal plane, the support portion comprising a plurality of elongated members releasably interconnected to one another, the elongated members including leg members having lower ends for engaging the floor;
 - removable structural fittings releasably interconnecting the table base top portion and the support portion so as to form a generally rigid base; and
 - replaceable polymerized sheathing surrounding each of the horizontal members and each of the elongated members, the sheathing having an inner diameter equal to or greater than the outer diameter of the members.
2. The table base according to claim 1, wherein all of the horizontal and the elongated members are straight.
4. The table base according to claim 1, wherein each of the horizontal and elongated members are hollow metal tubes.
5. The table base according to claim 4, wherein at least one of the structural fittings comprises a slip-in fitting having a base with a radiused end surface matching the outer diameter of one of the tubes, the fitting further having an engagement member extending from the base, the engagement member configured to engage the inner diameter of one of the tubes.
6. The table base according to claim 5, wherein the slip-in structural fitting further comprises a connector operable to connect the fitting to one of the tubes such that the end surface mates with the outer diameter of the tube.

7. The table base according to claim 5, wherein the base of the slip-in structural fitting has an outer diameter substantially the same as the outer diameter of the tube engaged by the engagement member.

8. The table base according to claim 5, wherein the engagement member comprises a pair of engagement fingers shaped to fit into the inner diameter of the tube engaged by the engagement member.

11. A collapsible table, comprising:

a glass table top;

four spaced apart generally vertical legs each having a lower end configured to contact the support surface and an upper end, each of the legs having a height and an outer diameter;

replaceable polymerized sheathing surrounding each of the legs, the sheathing having an inner diameter equal to or greater than the outer diameter of the legs;

a plurality of spaced apart horizontal rails for supporting the table top thereon, said horizontal rails interconnected with the upper ends of the legs, each of the horizontal rails having an outer diameter and a length; and

replaceable polymerized sheathing surrounding each of the horizontal rails, the sheathing having an inner diameter equal to or greater than the outer diameter of the horizontal rails.

12. The table base according to claim 11, wherein said plurality of horizontal rails comprises:

a first pair of parallel spaced apart horizontal rails, each rail extending between the upper end of two of the vertical legs and having a first end and a second end; and

a second pair of parallel spaced apart horizontal rails, one rail extending between the first ends of the first pair of horizontal rails and the other rail extending between the second ends of the first pair of horizontal rails.

13. The table base according to claim 11, further comprising a first leg brace extending

between two of said legs between the lower and upper ends thereof, the leg brace having a first end interconnected with one leg and a second end interconnected with the other leg.

14. The table base according to claim 11, wherein the sheathing extends substantially the entire height of the legs and the entire length of the horizontal rails.

18. The collapsible table of claim 1, where the table top is glass.